Supreme Court, U.S.
FILED

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No. _____

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1996

ASTRID A. SUNDWALL,

Petitioner

v.

STATE OF CONNECTICUT, ET AL

Respondent

PETITION FOR WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS FOR THE

SECOND CIRCUIT

MS. ASTRID A. SUNDWALL, Pro se
1229 Winsted Rd. #106
Torrington, CT. 06790
(860) 496-1252

Mar. 14, 1997

30 pp

1.) Whether the application of various doctrines and laws pertaining to the relation of state and federal courts has placed an unjustified and unprecedented limitation on the available of the federal forum to review state laws and procedures that violate the Constitution and federal law.

2.) Whether Plaintiff's complaint should have been dismissed based on chance words in the complaint without complying with the requirements of 28 USC {{1738.

3.) What authority does the federal court have to abstain from issuing relief, particularly when there is a specific federal statute defining when injunctions are allowed and when they are prohibited.

4.) To what extent should the Code of Judicial conduct come into play when "the purity of the judicial process" is the thing at stake.

5.) Whether the claim that Defendant/ Respondent's Mechanics lien statues and procedures are unlawful should have been dismissed.

6.) Whether claims against defendants who are in no way involved in the act of judging should have been dismissed.

LIST OF ALL PARTIES TO PROCEEDINGS IN THE FEDERAL DISTRICT COURT

In the District Court for Connecticut at Bridgeport, the Plaintiff was Appellant Astrid A. Sundwall. The Defendants were State of Connecticut; Judicial Department; Governor John G. Rowland in his official capacity; Ellen A. Peters in her official capacity; Aaron Ment in his official capacity; Edward Johnson in his official capacity; Donald B. Caldwell in his official capacity; Daniel Horwitch in his official capacity; and Marshall K. Berger in his official capacity.

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OFFICIAL OPINIONS IN THE CASE BELOW

The judgment and opinion of the District Court for the District of Connecticut at Bridgeport is reproduced in Appendix A of this Petition. The ruling was in response to Defendant/ Respondent's Motion to Dismiss.

A timely notice of appeal was filed by Plaintiff/Petitioner to the United States Court of Appeals. That court denied Plaintiff/Petitioner's appeal on December 19, 1996. The ruling is reproduced in Appendix B.

Because Plaintiff/Petitioner learned of the ruling from the Second Circuit by phone a few days before she was to leave for People's Republic of China, she filed a motion requesting an extension of time to after she returned to review the decision and file a Request to Reconsider. The Request to Reconsider is currently pending. Since there may be a question of whether Plaintiff's Motion to Reconsider was timely, this Petition is being filed at this time so as not to lose appeal rights to this Court.

Plaintiff has already exhausted the path for appellate review of the state courts decision on the constitutionality of Connecticut's Mechanic's Lien and Lis Pendants laws. (Ref. Sundwall v General Building Supply, Petition for Certiorari, No. 93-450) - Cert. denied.

JURISDICTION

The jurisdiction of this Court is invoked under 28 USC-1254. This petition is filed within ninety days of the ruling of the United States Court of Appeals Second Circuit.

CONSTITUTIONAL PROVISIONS, FEDERAL AND STATE STATUTE INVOLVED

This case involves the following constitutional and statutory provisions.

U.S. Const. Amend. XIV. Section I:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Article One, Section 10 of Connecticut Constitution.

All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law and right and justice administered without sale, denial or delay.

28 USC {{ 1331. Federal Question.

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

Federal Fair Debt Collection Practices Act, 15 USC 1692g. {{809 (b).
"(b) If the consumer notifies the debt collector in writing within the thirty-day period ....the debt collector shall cease collection of the debt, or any disputed portion thereof..."

28 USC 2283. Stay of State court proceedings.
A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

Conn. Gen. Stat. {{49-33 through CGS 49-39. Mechanics Lien; (Please refer to Appendix C for pertinent portions of the text of this statute.)

28 USC {{ 1738. Full Faith and Credit Act. (Please refer to Appendix C for pertinent portions of the text of this statute.)

42 USC {{ 1983. Civil Rights Act. (Please refer to Appendix C for pertinent portions of the text of this statute.)

STATEMENT OF THE CASE

This case has its origin in the actions of the Connecticut State Legislature who disagreed with the final decision of the State's highest court that portions of Connecticut's ex parte Mechanics Liens were unconstitutional and re-instituted provisions of the law that the court had ruled unconstitutional. (Roundhouse) This case also concerns a conflict between Connecticut's debt enforcement procedures and the requirements of the Federal Fair Debt Collection Practices Act. Finally, this case seeks judicial reform of Defendant/Respondent's practices and procedures that violate the Due Process clause of the United States Constitution.

In spite of Doehr, ex parte attachment schemes are growing like mushrooms throughout Connecticut's statutes and procedures. They are enacted ostensibly to secure a debt although the debt is not yet substantiated. With Mechanics Liens, enforcement of the debt claim is handled through the State's foreclosure procedures.

There is no way to enforce the requirement to notify the property owner that a lien has been filed. This means the property owner may not learn about a lien until they go to sell the property or refinance. A bond is not required to compensate the property owner in the event of an unjust "taking". Because of enormous case backlogs in state court and statutory provisions that places an extra ordinary burden on the property owner to dispute the alleged debt with a preponderance of the evidence, a timely and meaningful post attachment hearing is not possible. Antiquated and conflicting state discovery procedures exist. State Judges are either unaware of controlling federal debt

collection law or refuse to enforce it. Intentional abuses of the lien statute and foreclosure process occurs quite frequently. Abuses of the Rules of the Court are common. Thus, the resolution of a disputed debt can and often does take years while the property continues to be adversely affected by the lien.

The Defendant's debt enforcement procedures are at extreme variance with Federal law. What occurs is that the lien holder can begin foreclosure on the lien that secures the disputed debt without first obtaining a judgment. If the debt is verified at trial, the practice is to elect the remedy of foreclosure after which the property can be reclaimed, but only if the owner also pays the lawyers foreclosure fee. The only recourse for the property owner to avoid a lengthy and costly trial and permanent loss of their credit is to pay the unsubstantiated debt.

More importantly, however, the foreclosure court in Connecticut has become a forum for lawyers and judges to obtain valuable property at substantially less then its worth. This activity has been largely unregulated and consequently, fraud has crept into the process thereby placing the property owner in Connecticut at additional risk of unlawful deprivation of a substantial property right.

The lawsuit in state court is a civil matter between private parties. No legitimate state interest is present. Furthermore, all that remains in state court is the underlying fact disputes involved in the contract and debt collection which have been stayed in state court due to one of the parties to the state action having filed for bankruptcy protection.

Plaintiff filed this lawsuit in Federal District Court after her attempts in state court to obtain a favorable decision on the unconstitutionality of Connecticut's Mechanic's Lien and Lis Pendens statues failed. Before doing so, however, Plaintiff duly exhausted all her state and federal appeal rights.

The federal lawsuit suit seeks a declaratory judgment and an injunction. It sets forth claims under 42 USC {{1983; the Federal Fair Debt Collection Practices Act, 15 USC {{ 1692; the First and Fourteenth Amendment to the United States Constitution; and violations of State Constitution. Count two and three are new claims that have never been heard in any pending or former state case.

Defendant/Respondent filed a Motion to Dismiss the federal law suit before discovery could be had. It claimed that issues of comity and parity applied and that Plaintiff was also improperly appealing a state court decision to the District Court. Rather then complying with 28 USC {{1738 and the Anti Injunction Act, it did not cite and certify the "ruling" that was allegedly being appealed from and instead used chance words in the Plaintiff's complaint - words that in fact are needed in order to overcome Younger and similar doctrines. The District Court accepted the argument and dismissed the appeal. In so doing, the District Court has foreclosed any further opportunity to obtain federal review of Defendant/Respondent's unlawful and unconstitutional state laws and procedures. It has also extended the scope of "Rooker" beyond what this court intended.

The District Court issued the ruling that is set forth in Appendix A. On Appeal, the Second Circuit Court of Appeals rendered the ruling that is set forth in Appendix B.

REASONS FOR GRANTING THE WRIT

I. THE APPELLATE COURT HAS UPHELD THE DISTRICT COURT'S DECISION ON IMPORTANT QUESTIONS OF PARITY, COMITY, RES JUDICATA, AND DOCTRINES SIMILAR THERETO WHICH CONFLICT WITH FEDERAL LAW AS WELL AS VARIOUS RULINGS OF THIS COURT REGARDING THE ROLE OF THE FEDERAL COURTS IN RESOLVING CONSTITUTIONAL AND FEDERAL LAW CLAIMS.

The lower federal courts appear to have perceived a problem with the scope of its authority to review the decision of a state court based on this courts holding in Rooker. Some form of review is needed, however, if the federal court is to be asked to give full faith and credit to an alleged ruling by a state court. (Ref. provisions of 28 USC 2283 and 28 USC 1738, also Younger)

The manner in which the district court appears to have resolved the problem was to not inquire into the alleged state court ruling or examine the record below on the basis that to do so would be an impermissible appeal. Instead of assuming that all allegations within the complaint to be true, it examined chance words in Plaintiff/ Appellant's complaint (words that it turns out were needed to over come this courts findings in Younger, etc.,) and, without allowing any discovery what so ever, claimed that Plaintiff/ Appellant's motive was suspect and that in fact she was just improperly appealing a state court decision.

Monroe, Mitchum, and similar decisions by this court have made it clear that Section {{1983 was intended to provide a remedy in situations when there was not full and fair opportunity to litigate federal claims, and, that the state court proceedings should not be able to frustrate the role of the federal

judiciary in interposing the federal court between the states and the people in guarding peoples federal rights.

The purpose of the Federal Fair Debt Collection Practices Act is to stop abusive debt collection practices. Implicit in this wording is the right to stop actions that violate the law. Even a single instance of a state court enforcing a disputed debt would violate the Federal Fair Debt Collection Practices Act. (Vendo, Amalgamated)

As has been pointed out numerous times by various respected authorities on these various doctrines, "there is a real risk that questions of parity, and similar doctrines may be a pretext for funneling federal constitutional decision making into state courts precisely because they are less likely to be receptive to vigorous enforcement of federal constitutional doctrines". (Neuborne, The Myth of Parity, 90 Harv. L. Rev. 1105 (1977); Chemerinsky, Parity Reconsidered: Defining a Role for the Federal Judiciary, 36 UCLA, L. Rev. 233, (1988); Fallon, of Justiciability, Remedies and Public Law Litigation", Notes on the Jurisprudence of Lyons, 59 NYUL Rev. 1 (1984)).

While the issue of federal and state jurisdiction is important, the rules should be firm and as predictable as possible "because it is undesirable for federal courts to be able to manipulate these doctrines to avoid cases or to make decisions about the merits of disputes under the guise of these kind of doctrines", especially on the limited chance that a review of their activities can be had by this Court. (Nichol, Rethinking Standing, 72 Calif. L. Rev. 68 (1984); Gunther, The Subtle Vices of the "Passive Virtue: - A comment on Principle and Expediency in Judicial Reviews, 64 Columbia L. Rev. 1 (1964))

Problems in not applying federal law in dealing with allegations of res judicata issues involving alleged state court decisions are numerous. They include: (1) An opportunity to misrepresent the facts. (2) An opportunity to misrepresent the rulings. (3) Encouraging the entry of rulings in state court that would intentionally block federal review. (4) An opportunity to hide inculpating evidence. (5) The motives of the court become unprincipled because they depend entirely on how a court chooses to characterize plaintiffs injuries and complaint. (6) Access to the federal district court to adjudicate constitutional and federal claims becomes arbitrary. Moreover, the combination and/or application of these various theories and doctrines has left Plaintiff/Appellant without the choice of forum of federal court to address the State's unconstitutional and unlawful laws and procedures. (Dennis, Ex parte Young, NOPSI)

II. THE APPELLATE COURT HAS ENTERED A RULING THAT CONNECTICUT'S MECHANICS LIEN STATUTE DOES NOT VIOLATE THE CONSTITUTION. HOWEVER, THE CASES CITED DO NOT APPLY TO THE ISSUES IN PLAINTIFF'S COMPLAINT. UNLESS THIS COURT REVERSES THE DECISION OF THE LOWER FEDERAL COURTS, THERE WILL BE NO OTHER FORUM IN WHICH THE CONSTITUTIONALITY AND LAWFULNESS OF THE STATE'S LIEN STATUTES AND DEBT ENFORCEMENT PROCEDURES CAN BE CHALLENGED.

The Plaintiff/Appellant has already exhausted the state appellate path to review a state court's determination of federal law and constitutional claims as to the Connecticut Mechanics Lien and Lis Pendens statute. (Sundwall v General Building Supply, Petition No. 93-450) - Cert. denied.

Extra ordinary circumstances are present in this case due to the state courts continuing to enforce provisions of state law that its own Supreme Court have declared are unconstitutional. Moreover, the unconstitutional activities of state officials is the thing alleged in the federal complaint due to the largely unregulated trading in real estate by judges and lawyers in the foreclosure court. Lawyers who have knowledge of problems in the foreclosure court will not take on these cases in state court because of fear that they will never be able to practice law in the courts in Connecticut again. There is also no way of knowing when the court has compromised its ability to act. Therefore, the only recourse at this point to deal with state unconstitutional law claims is for the federal court to determine the constitutionality of state laws and procedures, otherwise Plaintiff and others will never be heard and the constitutional abuses will continue. (Kinner-Wood)

More incidents have come to light since the Second Circuit heard this appeal which further strengthens the argument for federal intervention. What occurred is that it subsequently came to the attention of Plaintiff/Appellant through a newspaper article that a clerk of the court had admitted to having taken substantial "loans" from lawyers. There are claims that she told at least one lawyer she could affect how his cases were handled. This activity has a direct bearing on Plaintiff's federal claims because the individual involved had access to Plaintiff's case file when many of the bogus entries referenced in the federal lawsuit occurred. Those entries were paving the way for a fraudulent strict foreclosure without ever proving the alleged debt. This activity

was hidden, however, by the extra ordinary steps taken by Defendant/Respondent to avoid discovery and the requirements of the Full Faith and Credit Statute by using chance words in Plaintiffs complaint instead.

SUMMARY:

Connecticut's numerous ex parte lien statutes are well known to this Court. (Ref. Conn. v. Doehr). Enough time elapsed in the state case to demonstrate that the State's post attachment judicial procedures for Mechanics Liens are extremely deficient in providing adequate post attachment due process.

What has occurred subsequent to the appeal in 1993 demonstrates conclusively that the State lacks incentive to deal with serious problems in the courts although the situation in Connecticut clearly infringes on citizens First Amendment and Due Process rights. For these reasons, federal courts should not leave the crucial and constitutional and federal law issues to a state court, subject only to the relatively remote chance of review by this Court.

Respectfully submitted,

Ms. Astrid A. Sundwall
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APPENDIX A

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ASTRID A. SUNDWALL
V. STATE OF CONN. ET AL No. 3:95CV2458 (AHN)

RULING ON DEFENDANTS' MOTIONS TO DISMISS

Plaintiff pro se Astrid Sundwall ("Sundwall") brings this action pursuant to 42 USC {{1983 (1988) against the State of Connecticut, the Judicial Department of the State of Connecticut, Governor John G. Rowland, The Honorable Ellen A. Peters, Chief Justice of the Supreme Court of the State of Connecticut, The Honorable Aaron Ment, Chief Court Administrator, The Honorable Marshall K. Berger, Jr., Daniel Horwitch, Statewide Bar Counsel to the Connecticut Statewide Grievance Committee, Donald B.Caldwell, Executive Director of the Judicial Review Council, and Edward Johnson, Executive Director of the Connecticut Bar Association. The individual defendants are named in their official capacities. She seeks declaratory and injunctive relief.

The defendants move to dismiss the complaint pursuant to Rules 12 (b)(1) and 12 (b) (6), Fed. R. Civ. P. For the reasons that follow, the motions to dismiss (doc. ##8, 21, 27) at GRANTED and the complaint is DISMISSED in its entirety.

DISCUSSION

Sundwall is a disgruntled state court litigant, apparently vexed by adverse rulings in a foreclosure proceeding in state court.

Her three-count Revised Complaint (doc. #33) contains a series of broad, conclusory accusations about alleged flaws in the Connecticut civil legal system, in particular its debt collection and enforcement laws, and provides a laundry list of perceived wrongs, claimed abuses of court rules and procedures, and purported attorney and judicial misconduct. Stripped to its essentials, however, Sundwall's request for declaratory and injunctive relief is an attack on the validity of the judgment of the state trial court in the foreclosure proceeding in which Sundwall was a party. It is well settled, however, that "a plaintiff may not seek a reversal of a state court judgment simply by casting (her) complaint in the form of a civil rights action." Hagerty v. Succession of Clement, 749 F. 2d 217, 220 (5th Cir. . 19784, cert. denied, 474 U.S. 968 (1985).

A federal district court does not have the authority to review the final judgments of a state court in a judicial proceeding. See Rooker v. Fidelity Trust Co., 263 U.S. 413, (1923). In Rooker, the plaintiff sought to reverse an unfavorable state court decision by filing a complaint in federal district court alleging that the state court decision rested on unconstitutional state statute. In affirming the district court's ruling that it lacked subject matter jurisdiction over the plaintiff's claim, the Supreme Court stated that "no court of the United States other than this Court could entertain a proceeding to reverse or modify the judgment for errors of that character. Id. at 416.

Sixty years later, in District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 482 (1983), the Court reaffirmed that federal district courts do not have jurisdiction "over challenges to state-court decisions in particular cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional." Id. at 486. The court restated that such review may be had only in the United States Supreme Court. See id.; see also 28 U.S.C. {{1257(a) 1988.

Pursuant to the Rooker-Feldman doctrine, federal courts have declined to exercise jurisdiction over constitutional claims brought pursuant to section 1983 that collateral attack a state court judgment if those section 1983 claims are "inextricably intertwined" with the state court judgment. See, e.g.. Ritter v. Ross, 992 F. 2d 750, 753-43 (7th Cir. 1993), cert. denied 114 S. Ct. 694 (1994). See also Feldman, 460 U.S. at 482-83 n. 16 ("If the constitutional clams presented to the United States district court are inextricably intertwined with the state court's denial in a judicial proceeding of a particular plaintiff's application for admission to the state bar, then the district court is in essence being called up to review the stet-court decision.") Although one exception exists to the Rooker-Feldman doctrine, that exception does not apply here. See Ritter, 992 F. 2d at 753; Brooks-Jones v. Hones, 916 F. Supp. 280, 281 (S.D.N.Y. 1996). Whether a federal claim is "inextricably intertwined" with a State court judgment often is a "difficult distinction to draw"

and varies with the circumstances of a particular case. See Ritter, 992 F. 21d at 754 (quoting Razatos v. Colorado Supreme Court, 746 F. 2d 1429, 1433 (10th Cir. 1984), cert. denied, 471 U.S. 1016, (1985)).

In Ritter v. Ross, the Seventh circuit addressed an issue similar to the present one. In Ritter, the plaintiffs alleged that a proceeding in rem to foreclose tax liens against the plaintiffs' property violated due process. In dismissing the section 1983 action the court held that the district court lacked subject matter jurisdiction over the plaintiff's section 1983 action under the Rooker-Feldman doctrine. It concluded that the subject of the plaintiffs' section 1983 action was the state court foreclosure proceedings and that their section 1983 claim was "inextricably intertwined" with the merits of that proceeding.

The Ritter court's conclusion applies here. Sundwall's claims are "inextricably intertwined" with the merits of the state court decision in the foreclosure proceeding. Indeed, the state court foreclosure proceedings are the subject of this action. (See Revised Compl. at 11-38, 40-47.)

Although Sundwall generally attacks the constitutionality of the state mechanics lien and foreclosure statutes, she primarily challenges the state court's refusal to remove an entry of default, its acceptance of "bogus" appraisals of the property's value, its refusal to discharge or reduce the amount of the lien, its failure to provide timely notice of its ruling, and its failure to issue a written ruling of its decision as well as the motives and tactics of the persons and entities involved in the foreclosure proceedings.

Sundwall professes that she does not seek to relitigate the state-court debt collection proceedings in this action. (See Pl.'s Mem. Law Opp'n Defs. Mot. Dismiss 6 (doc #25).) Her complaint and memorandum of law suggest otherwise, however. Indeed, she argues that if she was "required to wait a final judgment on the debt collection claim below," any ruling from this court would be too late to remedy the harm done to her as a result of the "unconstitutional and unlawful procedures that are here under attack." (id. at 6-7)

Like the plaintiffs in Ritter, Sundwall essentially is seeking federal district court appellate review of a state court's decision in a judicial proceeding. Because such a review may be had only in the United Stets Supreme Court, this court lacks subject matter jurisdiction over this action. Sundwall's course of appeal from an adverse trial court ruling in the foreclosure action was to the Connecticut appellate courts and then to the United States Supreme Court, not to this district court. Her complaint therefore is DISMISSED pursuant to Rule 12 (b) (1).

Because the court has dismissed Sundwall's section 1983 claims, the court declines to exercise supplemental jurisdiction over her state law clams. See United Mine Workers v. Gobbs, 383 U.S. 715, 726 (1966).

CONCLUSION

For the foregoing reasons, the motions to dismiss (docs. ## 8, 21, 27) are GRANTED and the complaint is DISMISSED in its entirety. SO ORDERED this 23rd day of April, 1996 at Bridgeport, Connecticut.

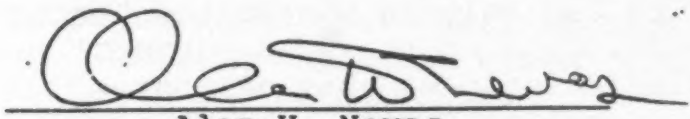
Alan H. Nevas, United States District Judge

CONCLUSION

g reasons, the motions to dismiss [docs. ##

D and the complaint is DISMISSED in its

23rd day of April, 1996 at Bridgeport,



Alan H. Nevas
United States District Judge

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APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Sundwall v. Connecticut Docket No. 96-7762

APPEARING FOR APPELLEE: (Edward Johnson, Executive Director, Connecticut Bar Assoc.) Andrew Turret, Bai, Pollock & Coyne, P.C. Bridgeport, CT.

Appeal from the United States District Court for the District of Connecticut (Alan H. Nevas, Judge)

This cause came to be heard on the transcript of record from the United States District Court for the District of Connecticut and was argued by appellant pro se and by counsel for appellee..

ON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the order of the District Court be and it hereby is AFFIRMED.

Astrid Sundwall, pro se, appeals from a judgment of the United States District court for the District of Connecticut (Nevas, J.) which dismissed her compliant for lack of subject matter jurisdiction. Sundwall brought a civil rights action against the State of Connecticut; Governor John G. Rowland; The Honorable Ellen A. Peters, Chief Justice of the Supreme Court of the State of Connecticut; the Judicial Department of the State of Connecticut; The Honorable Aaron Ment, Chief Court Administrator; The Honorable Marshal K. Berger, Jr.; Daniel B. Horwitch, Statewide Bar Counsel to the Connecticut Statewide Grievance Committee; Edward Johnson, executive Director of the Connecticut Bar Association; and Donald B.

Caldwell, Executive Director of the Judicial Review Council. The suit stems from a foreclosure action against Sundwall in state court. Sundwall sought declaratory and injunctive relief.

The district court properly dismissed counts two and three of the amended complaint for lack of subject matter jurisdiction, pursuant to Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923) and District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). Under the so-called "Rooker-Feldman doctrine," a federal court does not have the authority to review the final judgment of a state court in a judicial proceeding. Any decision concerning the second and third counts would require a federal court to review the decision made by the state court.

The Rooker-Feldman doctrine, however, does not apply to count one of Sundwall's amended complaint because that count, liberally construed, brings a general constitutional challenge to Connecticut's lis pendens and mechanic's lien statutes. See Feldman., 460 U. S. at 486-87. Therefore, because state and federal courts have determined that these statutes are constitutional, see New Destiny Devel. Corp. v. Piccioine, 802 F. Supp. 692, 698 (D.Conn. 1992) (finding Connecticut's lis pendens statute provides requisite due process and is constitutional); Red Rooster Constr. Co. v. River Assoc. , 620 A.2d 118, 123-124 (Conn. 1992) (Refusing to find Connecticut's mechanics lien statue unconstitutional); Papa v. Greenwich Green, Inc., 416, A. 2d 1996,

1199 (Conn. 1979) (discussing changes to Connecticut's mechanic's lien laws to remedy prior constitution deficiencies, including providing owner with notice of lien); Wallingford Staffordshire Commons Ass'n. v Staffordshire Assoc., 615 A. 2d 188, 1965 (Conn. Super. Ct. 1992) (finding Connecticut's lis pendens statute provides due process and is constitutional), we affirm the district court's dismissal of count one on the alternative ground that it fails to state a claim upon which relief may be granted, pursuant to Fed. R. Civ. P. 12(b)(6).

Finally, to the extent Sundwall's amended complaint alleges state law claims arising out of her claims concerning the Connecticut Constitution, the district court properly declined to exercise supplemental jurisdiction. See Nowak v. Ironworkers Local 6 Pension Fund, 81 F. 3d 1182, 111878, (2nd cir. 1996).

Accordingly, we AFFIRM THE JUDGMENT OF THE DISTRICT COURT.

WILFRED FEINBERG, U.S.C.J.
FRANK X. ALTIMARI, U.S.C.J.
FRED I. PARKER, U.S.C.J.

statute provides due process and is constitutional), we he district court's dismissal of count one on the ive ground that it fails to state a claim upon which ay be granted, pursuant to Fed. R. Civ. P. 12(b)(6). Finally, to the extent Sundwall's amended complaint state law claims arising out of her claims concerning the cut Constitution, the district court properly declined to supplemental jurisdiction. See Nowak v. Ironworkers Pension Fund, 81 F.3d 1182, 1187 (2d Cir. 1996). Accordingly, we AFFIRM the judgment of the district

WILFRED FEINBERG, U.S.C.J.

FRANK X. ALTIMARI, U.S.C.J.

FRED I. PARKER, U.S.C.J.

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APPENDIX C

Pertinent text of statutes.

Conn. Gen. Stat. {{49-33. Mechanics lien. Rights of subcontractors. (a) If any person has a claim for more than ten dollars for materials furnished or services rendered in the construction...of any building...the building, with the land on which it stands or the lot ...is subject to the payment of the claim.

(h) Any mechanics lien may be foreclosed in the same manner s a mortgage.

Conn. Gen. Stat. {{49-34. Certificate of lien to be recorded and notice given to owner. A mechanics lien is not valid, unless the person performing the services or furnishing the materials, (1) within ninety days after he has ceased to do so, lodges with the town clerk of the town in which the building, lot or plot of land is situated a certificate in writing, which shall be recorded by the town clerk with deeds of land,...and(2) within the same time, or prior to the lodging of the certificate but no later than thirty days after lodging the certificate, serves a true and attested copy of the certificate upon the owner of the building, lot or plot of land in the same manner as is provided for the service of the notice in section 49-35.

Conn. Gen. Stat. {{49-35b. Burden of proof at hearing. Authority of court. (a) Upon the hearing held on the application or motion set forth in section 49-35a, the lienor shall first be required to establish that there is probable cause to sustain the validity of his lien. Any person entitled to notice under section 49-35a may appear, to be heard and prove by clear and convincing evidence that the validity of the lien should not be sustained or the amount of the lien claimed is excessive and should be reduced.

(b) Upon consider of the facts before it, the court or judge may: (1) Deny the application or motion if probable cause to sustain the validity of the lien is established; or (2) order the lien discharged if (a) probable cause to sustain its validity is not established, or (b) by clear and convincing evidence its invalidity is established; or (3) reduce the amount f the lien if the amount is found to be excessive by clear and convincing evidence; or (4) order the lien discharged or reduce the amount of the lien conditioned upon the posting of a bond, with surety, in a sum deemed sufficient by the judge to indemnify the lienor for any damage which may occur by the discharge or the reduction of amount.

Conn.Gen.Stat. {{49-35c. Appeal.
(a) any order entered as provided in subsection (b) of section 49-35b shall be deemed a final judgment for the purpose of appeal.

(b) No appeal may be taken from the order except within seven days thereof.

Conn. Gen. Stat. {{49-39. Time limitation of mechanic's lien. Action to foreclose is privileged. A mechanics lien shall not continue in force for a longer period than one year after the lien has been perfected, unless the party claiming the lien commences an action to foreclose it, by complaint cross-complaint or counter-claim, and records a notice of lis pendens in evidence thereof on the land records of the town in which the lien is recorded within one year from the date of the lien was recorded or within sixty days of any final disposition of an appeal taken in accordance with section 49-35c, whichever is later....An action to foreclose a mechanics lien shall be privileged in respect to assignment for trial.

28 USC {{ 1738 State and Territory Statues and Judicial Proceedings; full faith and credit.

The records and judgment proceedings of any court of any such state...or copies thereof, shall be provided or admitted in other courts within the United States...by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form. Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall

have the same full faith and credit in every court within the United States and its territories...as they have by law or usage in the courts of such State...from which they are taken. (June 25, 1948.)

42 USC {{1983 Civil Action for Deprivation of Rights.

Every person who, under color of any statute,...of any state...subjects, or causes to be subjected, any citizen of the United States...to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.